IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
Arbitration Petition No.88 of 2004
With
Arbitration Appeal No.1 of 2004
With
Notice of Motion No.490 of 2004
With
Notice of Motion No.491 of 2004

Vinod Dave & anr. .. .. Petitioners
v/s.
Global Infrastructure & Technologies Ltd. & anr. .. .. Respondents

Mr.V.J.Mehta i/by M/s.Federal & Rashmikant for petitioners.
Mr.Vasant Shelke with Ms.Saira Mirzonkar for res.No.1.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 15th November 2006

P.C. :

1. The above Arbitration Petition has been filed with a prayer to terminate the mandate of respondent No.2 to the Petition to act as an Arbitrator since according to the petitioners he had not conducted himself correctly by denying a proper opportunity to the petitioners. This Petition came before a learned Single Judge (D.K. Deshmukh, J.). A judgment of another Single Judge (Rebello, J.) in **Hasmukhlal H. Doshi & anr. vs. Justice M.L. Pendse & ors. reported in 2001 (1) Arb.LR 87 (Bombay)** was relied upon before the

learned Single Judge to submit that such a Petition could not lie and that at the highest, the petitioners could challenge the Award as and when rendered by the Arbitrator. The learned Single Judge (D.K. Deshmukh, J.) took a different view and was inclined to accept the submissions of the petitioners. However, in view of the judgment of the other learned Single Judge (Rebello, J.) in **Hasmukhlal H. Doshi's case (supra)**, he requested the Hon'ble the Chief Justice to place the Arbitration Petition before a Division Bench. Accordingly, this Petition has been placed before us.

2. The said order passed by the Arbitrator being an interim order / Award the same has been independently challenged by the petitioners by filing Arbitration Appeal No.1 of 2004 and it has also been placed before this Bench.

3. Mr.Mehta, learned Counsel appearing for the petitioners, states that subsequently the Arbitrator has been replaced by consent of the parties by another Arbitrator and that arbitration has proceeded. Mr.Shelke appearing for respondent No.1 confirms this position.

4. In view of this development, Mr.Mehta states that both the Arbitration Petition as well as the Arbitration Appeal are not being pressed by the petitioners. Accordingly, both the Arbitration Petition and the Arbitration Appeal stand disposed of as not pressed. The Motions moved therein will also stand disposed of.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)